

REMARKS

Claims 11-15, 17-23, 25-27, and 29-34 are pending and are rejected. Claim 11 is amended. Claim 21 is canceled.

CLAIM REJECTIONS UNDER 35 U.S.C. §103

Claims 11-15, 17-23, 25-27, and 29-34 are rejected under 35 U.S.C. §103(a) as obvious over Kiyomitsu JP-A 2001-059281, English abstract and PTO translation 08-3999 in view of Purnell U.S. 6,190,440 B1.

Applicants have amended claim 11 to recite that the naturally occurring zeolite is clinoptilolite. As the Examiner states, Kiyomitsu does not specify a specific type of zeolite but finds that "It would have been obvious to one of ordinary skill in the art to have used natural zeolite in the wall board of Kiyomitsu as Purnell teaches either natural or synthetic zeolite for odor absorption." Applicants respectfully disagree.

Applicants' September 17, 2008 Declaration and experimental data showed the unexpected results using Applicants' building material. Specifically, the data showed different absorption abilities between a synthetic zeolite and clinoptilolite, a naturally occurring zeolite. As the Declaration further detailed, the building materials used in the experiments were formed by contacting the clinoptilolite with a gypsum slurry containing water. Under these conditions, zeolite will absorb water and become inactive. However, Applicants' boards formed with clinoptilolite nevertheless had adsorptive properties, while the boards formed from synthetic zeolite did not.

The Examiner states that "[These] data clearly shows a difference between the synthetic Zeolite A and the natural clinoptilolite" but questions whether the claims are commensurate in scope with these unexpected results. Amended claim 11 is commensurate in scope with these unexpected results by limiting the naturally occurring zeolite to clinoptilolite. The amendment is supported at least in originally filed claim 21, thus introducing no new matter.

Applicants' building material formed with clinoptilolite does not have properties that are predictable to a person of ordinary skill in the art, at least because the combination of the clinoptilolite and the gypsum slurry, which is not activated by drying the combination at the art recognized temperatures of between 200°C and 650°C, still possesses very good absorptive properties (September 17, 2008 Declaration statement 7). Purnell, applied as teaching the use of natural zeolites, also teaches the necessity of drying the zeolite: "Zeolites have the advantage in that they can be placed in the sun or other heated area to drive off the absorbed contaminants and moisture so that the zeolite can be reused" (col. 4, lines 65-67).

Thus, for at least the reasons analyzed above and in the September 17, 2008 Declaration, Applicants respectfully assert that claims 11-15, 17-23, 25-27, and 29-34 are not obvious. Applicants respectfully request the rejection be withdrawn.

CONCLUSION

Applicants believe the application is in complete condition for allowance. Fees for the response time extension are simultaneously being paid by Electronic Funds Transfer. No other fees are believed

due but, if deemed necessary, the Office is authorized to charge them to Deposit Account No. 20-0809.

The Examiner is invited to contact Applicants' undersigned representative with questions.

Respectfully submitted,

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